S.B. CIVIL WRIT PETITION NO.1281/95.
(ABDUL HAMID II VS. STATE & ANR.)

DATE OF ORDER : 19.04.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. P.P. Chaudhary for the petitioner.
Mr. Shyam Ladrecha, AGA, for the respondents.

By this petition for writ, a direction is sought by the petitioner to accord promotion to him as Binder Grade-I from the date the same was given to the persons junior to him as shown in the seniority list pertaining to Binders Grade-II, as revised in accordance with the judgment dated 05.10.1987 passed by this Court in the case of Ratan Giri vs. State of Rajasthan & Anr. (SBCWP No.1954/86) and in the case of Abdul Hamid vs. State of Rajasthan & Anr. (SBCWP No.474/90).

In brief, factual matrix necessary to be noticed is that the petitioner was employed as Binder Grade-II in the Directorate of Printing and Stationary Department, Government of Rajasthan on 25.08.65 and was confirmed as such on 14.09.72. A seniority list of the Binders Grade-II working in the Directorate was notified on 30.05.1986 wherein name of the petitioner was shown at S.No.54. While assigning seniority to the petitioner, his date of confirmation was not taken into

consideration, therefore, he preferred a petition for writ and that came to be accepted by an order dated 20.02.1991 in the terms of the judgment given by this Court in the case of Ratan Giri (supra). Relevant to note that in the case of Ratan Giri (supra), this Court directed the respondents to determine seniority of the employees initially appointed on temporary capacity by taking into consideration the date of their confirmation in light of the provisions of Rule 5 of the Rajasthan Civil Service (Subsequent appointment & determination of seniority of temporary employees) Rules, 1972. In compliance of the directions given by this Court, the Director passed an order dated 18.01.95 placing the petitioner at S.No.32-A in the seniority list dated 30.05.1986. A revised seniority list thereafter was issued wherein the name of the petitioner was shown at S.No.26.

The grievance of the petitioner is that though the respondents have placed the petitioner in the seniority list by taking into consideration the date of his confirmation, however, the consequences following therefrom such as grant of promotion to the post of Binder Grade-I from the post of Binder Grade-II is not accorded. It is asserted that the respondents have already given promotions to number of persons junior to him as Binder Grade-II and such juniors are S/Shri Ram Lal, Abdul Rajak, Gulab Singh and Ramdeo.

In reply to the writ petition, the fact about granting promotions to the persons junior than the petitioner named above is not denied, however, it is urged that the promotion was given to the petitioner as Printer Grade-I, but he was reverted to his original post at his own request.

Heard counsel for the parties.

The service conditions including recruitment to the post of Binder Grade-II and Binder Grade-I is regulated in accordance with the Rajasthan Government Press Subordinate Service Rules, 1973. Under the Rules of 1973, a Binder Grade-II is having an avenue for promotion to the post of Binder Grade-I subject to the availability of qualification of 8th Standard with 10 years experience on the feeder post. The respondents may have given promotion to the petitioner as Printer Grade-I, but that was of no consequence as under the Rules of 1973, the avenue for promotion available to the Binder Grade-II is to Binder Grade-I and not as Printer Grade-I. The respondents, therefore, were required to consider the case of the petitioner for promotion to the post of Binder Grade-I on basis of the revised seniority. The respondents have admittedly promoted at least four persons junior than the petitioner as Binder Grade-I ignoring the petitioner's claim to be considered for promotion or

by giving promotion to him on a post for that no regular channel of promotion is prescribed under the Rules of 1973. Once a seniority was assigned to the petitioner in pursuant to the directions given by this Court, the consequential relief was also required to be given by considering his case for promotion. I do not find any just and valid reason for not considering the case of the petitioner for the purpose of promotion to the post of Binder Grade-I on basis of his seniority that was revised under the directions of this Court. It is not in dispute that the petitioner possessed eligibility to be considered for appointment by way of promotion as Binder Grade-I. The reasons given by the respondents that a promotion was accorded to the petitioner as Printer Grade-I is of no consequence as it is not in Line of Promotion available to a Binder Grade-II under the Rules of 1973.

In view of whatever discussed above, this petition for writ deserves acceptance. Accordingly, the same is allowed. The respondents are directed to consider case of the petitioner for the purpose of promotion as Binder Grade-I in accordance with his seniority in the cadre of Binder Grade-II. If the petitioner is found fit to be promoted, promotion be accorded to him from the date it was given to the persons junior to him.

It is stated by learned counsel for the petitioner at Bar that the petitioner has already retired from service, therefore, if the respondents promote the petitioner, they be directed to revise his pension also. I am of the opinion that no such direction is required to be given as it is well settled that if a promotion is given with retrospective effect, in that event grant of all natural consequences such as fixation of pay and revision of pension etc. are natural corollary.

No order to cost.

(GOVIND MATHUR)J.

Anil/